

## REMARKS

Claims 1 and 3-13 are pending in the application and have been rejected. Reconsideration and allowance of Claims 1 and 3-13 in view of the following remarks is respectfully requested.

### The Rejection of Claims 1, 5, and 10-12 Under 35 U.S.C. § 103(a)

Claims 1, 5, and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,791, issued to Herron et al., in view of U.S. Patent Application Publication No. US 2003/0208859, to Neogi et al. Withdrawal of the rejection is requested for the following reasons.

The Examiner states that the Herron reference does not teach that bleached fibers have a Whiteness Index greater than unbleached fibers. The Examiner relies on the Neogi reference as teaching that bleaching indirectly elevates whiteness. Applicants respectfully submit that the Neogi reference is not citable as a reference against the present application.

The Neogi reference has a publication date of November 13, 2003 and is a § 102(a) reference with respect to the present application. Because the present invention was reduced to practice before the publication of the Neogi reference, the Neogi reference is not available as prior art citable against the present application.

37 C.F.R. § 1.131: Declaration of Prior Invention. According to 37 C.F.R. § 1.131, if the applicant establishes reduction to practice of the invention claimed in his application prior to the effective date of the reference, then the Patent Office should withdraw the rejection based on that reference. 37 C.F.R. § 1.131(a)(1), states, in pertinent part:

[w]hen any claim of an application is rejected, the inventor of the subject matter of the rejected claim . . . may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference . . . on which the rejection is based.

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Therefore, pursuant to 37 C.F.R. § 1.131, an applicant may overcome a 35 U.S.C. § 102(a) rejection by presenting a showing of facts that establish that applicant reduced to practice the claimed invention in the U.S. before the effective date of the cited reference.

Evidence of Prior Invention. Enclosed herewith is the declaration of Kathy A. Welch evidencing invention of the presently claimed subject matter prior to November 13, 2003, the publication date of the Neogi reference.

As set forth in Ms. Welch's declaration, bleached polyacrylic acid crosslinked cellulose fibers were prepared by treating polyacrylic acid crosslinked fibers with a bleaching agent. See Welch declaration paragraph 4. The declaration and supporting documentation (Exhibits A-D) evidence the preparation of the polyacrylic acid crosslinked fibers described in Table 2 (Samples A-H) of the present application. These bleached polyacrylic acid crosslinked fibers have a Whiteness Index greater than polyacrylic acid crosslinked cellulosic fibers that have not been treated with the bleaching agent, see Table 2 of the present application (compare, for example, Sample A without bleaching and Samples B-D with bleaching, or Sample E without bleaching and Samples F-G with bleaching). The declaration and supporting documentation (i.e., Exhibit D) evidence the Hunter *L*, *a*, and *b* values of the polyacrylic acid crosslinked fibers set forth in Table 2 (Samples A-H) of the present application. The Hunter *L*, *a*, and *b* values set forth in Table 2 of the present application are the average of the Hunter *L*, *a*, and *b* values (five replicates) tabulated in the documentation supporting the declaration (i.e., Exhibit D). See Welch declaration paragraph 4f. Whiteness Index (WI) is calculated from Hunter *L* and *b* values according to the equation:  $WI = L - 3b$ . See page 11, lines 6-9 of the application as originally filed. The Whiteness Index values set forth in Table 2 of the present application were calculated from the Hunter *L* and *b* values set forth in Table 2. See Welch declaration paragraph

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4g. All of the polyacrylic acid crosslinked fibers described above were prepared prior to November 13, 2003. See Welch declaration paragraph 6.

The Welch declaration and supporting documentation evidence that the claimed invention was reduced to practice prior to the publication of the Neogi reference. Because the Neogi reference has an effective date after the date of reduction to practice of the presently claimed invention, applicants have established reduction to practice of the claimed invention prior to the effective date of the Neogi reference.

Because applicants have established that the claimed invention was reduced to practice prior to the effective date of the Neogi reference, withdrawal of the rejections based on the reference is respectfully requested.

The Rejection of Claims 3, 4, and 6-9 Under 35 U.S.C. § 103(a)

Claims 3, 4, and 6-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,791, issued to Herron et al., in view of U.S. Patent Application Publication No. US 2003/0208859, to Neogi et al., and further in view of U.S. Patent No. 5,562,740, issued to Cook et al. Withdrawal of the rejection is requested for the following reasons.

Claims 3 and 4 depend from Claim 1, and Claims 6-9 depend from Claim 5.

As set forth above, pursuant to 37 C.F.R. § 1.131, applicants have established that the claimed invention was reduced to practice prior to the effective date of the Neogi reference. Accordingly, withdrawal of the rejection based on the Neogi reference is respectfully requested.

Because the cited references, either alone or in combination, fail to teach, suggest, provide any motivation to make, or otherwise render obvious the claimed invention, the claimed invention is nonobvious and patentable over the cited references. Withdrawal of the rejection is respectfully requested.

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The Rejection of Claim 13 Under 35 U.S.C. § 103(a)

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,549,791, issued to Herron et al., in view of U.S. Patent Application Publication No. US 2003/0208859, to Neogi et al., and further in view of U.S. Patent No. 5,562,740, issued to Cook et al., and U.S. Patent Application Publication No. US 2002/015189, to Wang et al. Withdrawal of the rejection is requested for the following reasons.

Claim 13 depends from Claim 1.

As set forth above, pursuant to 37 C.F.R. § 1.131, applicants have established that the claimed invention was reduced to practice prior to the effective date of the Neogi reference. Accordingly, withdrawal of the rejection based on the Neogi reference is respectfully requested.

Because the cited references, either alone or in combination, fail to teach, suggest, provide any motivation to make, or otherwise render obvious the claimed invention, the claimed invention is nonobvious and patentable over the cited references. Withdrawal of the rejection is respectfully requested.

The Provisional Obviousness-Type Double Patenting Rejection

Claims 1 and 3-13 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 9, and 10 of copending application No. 10/815,206 in view of U.S. Patent No. 6,211,296, issued to Frate et al.

In view of the foregoing remarks, applicants believe that the provisional double patenting rejection is the only remaining rejection. Pursuant to MPEP 822.01, applicants respectfully request that the provisional double patenting be withdrawn in this application to permit the present application to issue as a patent, thereby converting the provisional double patenting rejection in copending application No. 10/815,206 into a double patenting rejection.

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CONCLUSION

In view of the foregoing remarks, applicants believe that Claims 1 and 3-13 are in condition for allowance. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone applicants' attorney at 206.695.1755.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop AE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: March 3, 2006 *George E. Renzoni*

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